

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #11	CCRB Case #: 201902915	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/03/2019 6:30 PM	Location of Incident: 22 Post Avenue	Precinct: 34	18 Mo. SOL 10/3/2020	EO SOL 5/20/2021	
Date/Time CV Reported Thu, 04/04/2019 11:16 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/04/2019 11:16 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Justin Vartanian	08151	955622	034 PCT
2. POM John Bonhomme	00633	954559	034 PCT
3. SGT Zulfiqar Ahmed	01226	934693	034 PCT
4. POM Hansel Salcedo	16775	961228	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Hansel Salcedo	Force: Police Officer Hansel Salcedo used physical force against § 87(2)(b)	
B.POM John Bonhomme	Force: Police Officer John Bonhomme used physical force against § 87(2)(b)	
C.POM John Bonhomme	Force: Police Officer John Bonhomme used physical force against § 87(2)(b)	
D.POM Justin Vartanian	Force: Police Officer Justin Vartanian struck § 87(2)(b) with a radio.	
§ 87(4-b), § 87(2)(g)		

### Case Summary

§ 87(2)(b) filed this complaint on behalf of her son, § 87(2)(b) via phone with the CCRB on April 3, 2019. § 87(2)(b) did not witness the incident.

On April 3, 2019, an individual who identified herself as § 87(2)(b)'s girlfriend filed this complaint on behalf of § 87(2)(b) via phone with IAB, and IAB Log number 2019-13192 was generated. On April 10, 2019, the CCRB received this duplicate complaint under IAB Log number 2019-13405. During § 87(2)(b)'s CCRB interview, he did not list his girlfriend among the witnesses, and he named his friend § 87(2)(b) as a victim in this case.

On April 3, 2019, at approximately 6:30 p.m., § 87(2)(b) and his friend § 87(2)(b) were on motorized bicycles outside of 22 Post Avenue in Manhattan. Patrolling nearby were PO Hansel Salcedo, PO John Bonhomme, Sgt. Zulfiqar Ahmed, all of the 34<sup>th</sup> Precinct anti-crime team, and PO Justin Vartanian, then of the 34<sup>th</sup> Precinct anti-crime team. PO Salcedo and PO Bonhomme took § 87(2)(b) to the ground (**Allegation A- Force- Exonerated; Allegation B- Force- § 87(2)(g)** PO Bonhomme allegedly punched § 87(2)(b) in the face (**Allegation C- Force- § 87(2)(g)**

As § 87(2)(b) was taken into custody, § 87(2)(b) drove away on his motorized bicycle. PO Vartanian ran after him, and when he could not catch up with him, threw his police radio at § 87(2)(b) which struck § 87(2)(b) in the forehead (**Allegation D- Force- § 87(2)(g)** § 87(2)(b) drove to his girlfriend's house in the Bronx, from which he went to § 87(2)(b) Hospital. § 87(2)(b) was taken into custody from the hospital. Sgt. Ahmed did not activate his body-worn camera as a result of this incident (**Allegation E- Other Misconduct**).

The investigation obtained body-worn camera (BWC) footage for this incident, as well as surveillance footage from 22, 26, 30, 34, and 38 Post Avenue in Manhattan.

§ 87(2)(b) and § 87(2)(b) were arrested as a result of this incident. § 87(2)(b) was arrested for reckless endangerment, tampering with physical evidence, fleeing from an officer in a motor vehicle, obstructing governmental administration, and unlicensed operation of a motor vehicle. § 87(2)(b) was arrested for unlicensed operation of a motor vehicle, not wearing a motorcycle helmet, and not registering a vehicle (Board Reviews 01 and 02).

### Findings and Recommendations

**Allegation (A) Force: Police Officer Hansel Salcedo used physical force against § 87(2)(b)**

**Allegation (B) Force: Police Officer John Bonhomme used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) and § 87(2)(b) were sitting on motorized bicycles in front of 22 Post Avenue in Manhattan with a group of friends when they were approached by PO Salcedo and PO Bonhomme.

PO Salcedo's body-worn camera footage captures PO Salcedo leaving his vehicle, and running towards § 87(2)(b) who was sitting on a motorized bicycle, rides the bicycle a short distance southbound, discards the bicycle, runs northbound on Post Avenue, and tries to run into a building. PO Salcedo pulls him off the stoop of the building, and he and PO Bonhomme, who has caught up with PO Salcedo and § 87(2)(b) take § 87(2)(b) to the ground (Board Review 03). PO Bonhomme's BWC footage was consistent with PO Salcedo's (Board Review 04). Additionally, takedown was captured from multiple building angles (Board Review 05, timestamps 00:26:17 to 00:26:37 in the video player; Board Review 06, timestamps

00:26:17 in the video player; Board Review 07, timestamps 00:27:24 to 00:27:44 in the video player; Board Review 08, timestamps 00:27:23 to 00:27:43 in the video player; Board Review 09, timestamps 00:27:23 to 00:27:43 in the video player).

§ 87(2)(b) stated that § 87(2)(b) was sitting on his Honda 49 CC bike while it was on the sidewalk in front of 30 Post Avenue when officers arrived at the location. § 87(2)(b) tried running away from the officers, reached approximately 26 Post Avenue, and two officers took him to the ground. Attempts to contact § 87(2)(b) and § 87(2)(b) named as witnesses to this incident by § 87(2)(b) were unsuccessful (Board Review 40).

§ 87(2)(b) said in a video teleconference interview from § 87(2)(b) on September 30, 2019 that he and § 87(2)(b) were sitting on a pair of Honda CR50 CC motorcycles at the outset of the incident. When he saw the police coming, he panicked, because he knew that other people had been arrested for the riding the sort of bike that he was on. He jumped off of his bike, and ran approximately two houses away. Two officers grabbed him by the shoulders. One of them turned him around, and took him to the ground. He said that his epilepsy medication generally affects his memory. He did not go to the hospital as a result of this incident. § 87(2)(b) did not return a verification form mailed to him § 87(2)(b).

PO Salcedo, who was wearing a uniform, saw § 87(2)(b) on a motorcycle on a sidewalk. § 87(2)(b) made eye contact with PO Salcedo, and started riding the bike northbound on the sidewalk. § 87(2)(b) got off of the motorcycle, letting it roll unoccupied southbound, and sprinted northbound. § 87(2)(b) ran up the stairs to a stoop at a nearby building. PO Salcedo grabbed him, he did not remember where on § 87(2)(b)'s body he did so, pulled him down the stairs of the stoop, and guided him to the ground. He was joined by PO Bonhomme in guiding § 87(2)(b) to the ground and handcuffing him.

PO Bonhomme, who was wearing plainclothes, stated that he, PO Salcedo, and Sgt. Ahmed chased § 87(2)(b) who started fleeing on the motorcycle, and then continued the pursuit by foot. PO Salcedo grabbed § 87(2)(b). PO Bonhomme did not remember where on his body he did so, and guided him to the ground. PO Bonhomme participated in the takedown by grabbing § 87(2)(b)'s arms and putting them behind his back to handcuff them.

Threat, Resistance, and Injury (TRI) Reports #2019-034-000033-2 and 2019-034-000033-3 were prepared by PO Salcedo and PO Bonhomme, respectively. Sgt. Ahmed signed both documents. The TRI reports both indicate that § 87(2)(b) fled from police, and that officers took him to the ground (Board Reviews 45 and 46).

PO Vartanian remembered only that PO Salcedo took § 87(2)(b) to the ground.

Sgt. Ahmed did not see any part of the apprehension of § 87(2)(b).

New York State Penal Law Section 35.30 allows officers to use the amount of force they reasonably believe is necessary to effect an arrest, or to prevent escape from custody (Board Review 41). Patrol Guide 221-03 includes forcible takedowns as Level 1 Force, the lowest level of reportable force. The New York State Department of Motor Vehicles lists off-road motorcycles, or “dirt bikes,” as vehicles that cannot be registered or operated on any “New York State sidewalks, streets, or highways” (Board Review 47).

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Force: Police Officer John Bonhomme used physical force against § 87(2)(b)**

Whether PO Bonhomme punched § 87(2)(b) in the face as he was handcuffing him is in dispute.

Neither PO Salcedo's nor PO Bonhomme's body-worn camera shows PO Bonhomme punching § 87(2)(b) in the face (Board Review 03 and Board Review 04). None of the angles of surveillance footage show § 87(2)(b) being punched in the face (Board Review 05, timestamps 00:26:17 to 00:26:37 in the video player; Board Review 06, timestamps 00:26:17 in the video player; Board Review 07, timestamps 00:27:24 to 00:27:44 in the video player; Board Review 08, timestamps 00:27:23 to 00:27:43 in the video player; Board Review 09, timestamps 00:27:23 to 00:27:43 in the video player; Board Review 13).

§ 87(2)(b) testified that a plainclothes officer punched § 87(2)(b) while he was being taken to the ground. In a follow-up teleconference, § 87(2)(b) further described that § 87(2)(b) was struck with a closed fist near his chin by an officer wearing plainclothes and wearing a hat (Board Review 12).

§ 87(2)(b) did not remember any officer punching in the face in the time that he was getting arrested.

Attempts to locate and contact § 87(2)(b) and § 87(2)(b) named as witnesses to this incident by § 87(2)(b) were unsuccessful (Board Review 40).

PO Bonhomme identified himself in surveillance video as the officer wearing a hat who assisted in restraining § 87(2)(b). He denied striking § 87(2)(b) in the face.

TRI #2019-034-000033-3, prepared by PO Bonhomme, does not indicate that he used a hand strike against § 87(2)(b) (Board Review 46).

PO Salcedo, PO Vartanian, and Sgt. Ahmed also denied that any officer struck § 87(2)(b) while he was handcuffing him.

§ 87(2)(b), § 87(2)(g)

**Allegation (D) Force: Police Officer Justin Vartanian struck § 87(2)(b) with a radio.**

It is not in dispute that as § 87(2)(b) drove the motorized bicycle on the sidewalk, away from the officers, PO Vartanian chased him on foot, and then threw his portable radio at him. The radio struck § 87(2)(b) in the forehead as he looked back at PO Vartanian.

PO Vartanian's body-worn camera fell off during the foot pursuit, and did not capture this allegation (Board Review 14, timestamps 00:00:10 to 00:00:44 in the video player; Board Review 13). Surveillance video from 22 Post Avenue and 26 Post Avenue captured PO Vartanian running after § 87(2)(b) and throwing a radio (Board Review 15, timestamps 00:24:17 to 00:24:37 in the video player; Board Review 16, timestamps 00:24:20 to 00:24:40 in the video player; Board Review 08, timestamps 00:27:42 to 00:28:02 in the video player; Board Review 09, timestamps 00:27:42 to 00:28:02 in the video player). The radio strikes § 87(2)(b) on the forehead, and bounces off. As § 87(2)(b) drives away, three unidentified female individuals walking on the sidewalk run out of his path (Board Review 15, timestamps 00:24:17 to 00:24:37 in the video player).

On April 3, 2019, when § 87(2)(b) came to his girlfriend's home with an injury, 911 was called. The 911 operator notified IAB, who dispatched a patrol supervisor: Sgt. Thomas

Sontag of the 48<sup>th</sup> Precinct. § 87(2)(b) was initially interviewed by Sgt. Sontag, who responded to take him to § 87(2)(b) Hospital to be evaluated.

IAB notified Sgt. Ahmed when § 87(2)(b) was at § 87(2)(b) Hospital, and Sgt. Ahmed responded to interview § 87(2)(b) at the hospital, and to arrest him. Both of these interviews were captured on body-worn camera, Sgt. Sontag's on his own body-worn camera, and Sgt. Ahmed's on PO Salcedo's body-worn camera. During both of these interviews, § 87(2)(b) said that he tried to flee on his bicycle when he saw police, but that one of them hit him in the head with a "walkie" as he was trying to get away (Board Review 35, Board Review 36, Board Review 13, Board Review 42, Board Review 43).

§ 87(2)(b) who stands 5'6" tall and weighs 160 pounds testified that as he was riding away, he turned his head, and a police radio hit him on the forehead. He blacked out for a minute, and kept riding, going to his girlfriend's house in the Bronx. When his girlfriend saw that he had a bump and blood on his head, she called an ambulance, and he was treated at § 87(2)(b) Hospital.

§ 87(2)(b) remembered that § 87(2)(b) was riding his motorcycle southbound, and PO Vartanian threw a radio at his face. § 87(2)(b) did not see where on § 87(2)(b)'s face the radio hit him.

Attempts to contact § 87(2)(b) and § 87(2)(b) named as witnesses to this incident by § 87(2)(b) were unsuccessful (Board Review 40).

PO Vartanian, who stands 5'10" tall and weighs 224 pounds, stated that he did not remember whether he issued § 87(2)(b) any commands before chasing him. He initially testified that he tripped on something. He did not know what he tripped over. As he felt himself fall forward, he opened his hand, and the radio flew 10 to 15 feet forward. He did not see where it landed. § 87(2)(b) escaped. After viewing a clip of video from the one of the surveillance cameras (clip contained in Board Review 44) once, PO Vartanian did not want to add anything to his testimony.

After showing PO Vartanian the same clip of video a second time, specifically the section of the video when he winds back his arm and body before the radio leaves his hand, PO Vartanian testified, "What I remember from the incident was what I told you earlier. Now seeing the video, it does look like I threw the radio...It was happening fast, and it must have been a reactionary way of running after someone, it wasn't intentional." When asked why he threw the radio, PO Vartanian said, "I don't even know. It was just a reaction, I guess, while running." He denied that throwing the radio was part of any specific plan to apprehend § 87(2)(b). PO Vartanian admitted that the injuries on § 87(2)(b)'s head could have been caused by the radio hitting it.

None of the other officers present remembered seeing PO Vartanian throw the police radio.

Threat, Resistance, and Injury (TRI) Report #2019-034-000033-1 by PO Vartanian and Sgt. Ahmed indicated that PO Vartanian unintentionally struck § 87(2)(b) with a radio, but did not elaborate as to how this occurred (Board Review 21).

The Investigating Supervisor's Assessment Report associated with (TRI) Report #2019-034-000033-1, prepared by Captain Thomas Palmer of the 34<sup>th</sup> Precinct, indicated that Captain Palmer informally interviewed PO Vartanian, PO Salcedo, PO Bonhomme, and Sgt. Ahmed. Captain Palmer concluded that PO Vartanian's account that he lost his balance and released the radio into the air was supported with body-worn camera footage, which Captain Palmer claimed appeared to show him off-balance (Board Review 22).

The Ambulance Call Report from the ambulance ride that § 87(2)(b) took reflected that § 87(2)(b) had head pain due to being hit with a police radio. § 87(2)(b) told EMS that he was on a bike when he turned around and the radio was thrown by police. He denied any loss of consciousness (Board Reviews 17 and 18).

§ 87(2)(b)'s medical records from § 87(2)(b) Hospital reflected that he sustained lacerations and a hematoma on his head. He told the staff at § 87(2)(b) Hospital that an officer threw a radio at his head. He was diagnosed with a minor but likely concussive head injury, with a laceration (Board Reviews 19 and 20).

§ 87(2)(b) provided photos to the CCRB via email on April 18, 2019, before he was incarcerated. He said that these photos were taken on April 3, 2019. They show a large bruise and bump on the left side of his forehead. There are also bleeding scratches on the left side of his forehead. A photo attached to the TRI for this incident show a bruise on § 87(2)(b)'s forehead. § 87(2)(b)'s arrest photo also shows a large bump and scratches (Board Reviews 23, 24, 25, 26, 37, 38, and 39).

Patrol Guide Procedure 221-01 requires that officers use objective reasonable force. Factors in judging reasonableness include the nature and severity of the crime and circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat to all parties, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to officers, size of the subject in comparison to officers, subject's violent history, presence of hostile crowd, and whether the subject is under the influence of a stimulant or narcotic that would affect pain tolerance (Board Review 10). Patrol Guide 221-03 defines deadly force as that which is readily capable of causing death or serious physical injury (Board Review 11).

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 30).
- This is the first CCRB complaint filed against PO Vartanian.
- PO Bonhomme has been a member of service for six years. Three complaints, and two allegations, have been filed against him, none of which have been substantiated.
- PO Salcedo has been a member of service for three years. One complaint, and one allegation has been filed against him. It has not been substantiated.

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On October 11, 2019, the New York City Office of the Comptroller indicated that no Notice of Claim was filed in regards to this incident (Board Review 31). On December 16, 2019, an updated request for a Notice of Claim was submitted to the New York City Office of the Comptroller (Board Review 32). The results will be added to the case file upon receipt.
- § 87(2)(b)
- § 87(2)(b)

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date